

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PROCEDURE TO BE FOLLOWED ON MOTIONS FOR INJUNCTIVE RELIEF

NOTE WELL: It is the duty of the parties to present to the court, in the manner required by this procedure, all facts and law necessary to the just, speedy and inexpensive determination of this matter. The court is not obliged to search the record for facts or to research the law when deciding a motion for injunctive relief.

I. NOTICE

- A. It is the movant's obligation to provide **actual** and **immediate** notice to the opposing party of the filing of the motion and of the date set for a hearing, if any.
- B. The movant must serve the opposing party **promptly** with copies of all materials filed.
- C. Failure to comply with provisions A and B may result in denial of the motion for this reasons alone.

II. MOVANT'S OBLIGATIONS

- A. It is the movant's obligation to establish the factual basis for a grant of relief.
 - 1. In establishing the factual basis necessary for a grant of the motion, the movant may file and serve:
 - (a) A stipulation of those facts to which the parties agree;
 - (b) A statement of record facts proposed by the movant;
 - (c) A statement of those facts movant intends to prove at an evidentiary hearing; or
 - (d) Any combination of (a), (b) and (c).
 - 2. Whether the movant elects a stipulation or a statement of proposed facts, it is the movant's obligation to present a precisely tailored set of factual propositions that movant considers necessary to a decision in the movant's favor.¹
 - (a) The movant must set forth each factual proposition in its own separately numbered paragraph.
 - (b) In each numbered paragraph the movant shall set cite with precision to the source of that proposition, such as

¹ These factual propositions must include all basic facts necessary to a decision on the motion, including the basis for this court's jurisdiction, the identity of the parties and the background of the parties' dispute. The movant should not include facts unnecessary to deciding the motion for injunctive relief.

pleadings,² affidavits,³ exhibits, deposition transcripts, or a detailed proffer of testimony that will be presented at an evidentiary hearing.

- B. The movant must file and serve a statement of the movant's proposed conclusions of law, each set forth in its own separately numbered paragraph.
- C. The movant must file and serve all materials specified in II. A and II. B with the movant's supporting brief.
- D. If, the court concludes that the movant's submissions do not comply substantially with these procedures, then the court, at its sole discretion, may deny summarily the motion for injunctive relief, cancel any hearing on the motion, or postpone the hearing.

III. RESPONDENT'S OBLIGATIONS

- A. When a motion and supporting materials and brief have been filed and served in compliance with Section II, above, the opposing respondent(s) shall file and serve the following:
 - 1. Any affidavits or other documentary evidence that the respondent chooses to file and serve in opposition to the motion.
 - 2. A response to the movant's statement of proposed findings of fact, with the respondent's paragraph numbers corresponding to the movant's paragraph numbers.
 - (a) With respect to each numbered paragraph of the movant's proposed findings of fact, each respondent shall state clearly whether the proposed finding is not disputed, disputed, or disputed in part. If disputed in part, then the response shall identify precisely which part is disputed.
 - (b) For each paragraph disputed in whole or in part, the response shall cite with precision to the evidentiary matter in the record or to the testimony to be presented at the hearing that respondent contends will refute this factual proposition.
 - 3. A response to the movant's proposed conclusions of law, with the respondent's paragraph numbers corresponding to the movant's paragraph numbers.

² The pleadings, however, are not evidence. Therefore, the movant may use the pleadings as a source of facts *only if* all parties to the hearing stipulate to these facts on the record.

³ Affidavits must be made on personal knowledge setting forth facts that would be admissible in evidence, including any facts necessary to establish admissibility.

- (a) With respect to each of the movant's proposed conclusions, the respondent shall state clearly whether this conclusion is not disputed, disputed, or disputed in part. If the disputed in part, then the response shall state precisely which portion of the proposed conclusion is disputed and why.
 - (b) If a respondent believes that the motion for injunctive relief must fail because of conclusions of law not stated by movant, then the respondent must set forth all such conclusions of law, with each new proposed conclusion of law set forth in a separately numbered paragraph.
- B. The response, in the form required by III A., above, shall be filed and served together with a brief in opposition to the motion for injunctive relief not later than seven calendar days after movant has served the motion and supporting papers on the respondent.
- C. There shall be no reply by the movant.

IV. HEARING

If the court determines that a hearing is necessary to take evidence and hear arguments it shall notify the parties promptly. It is each party's responsibility to ensure the attendance of its witnesses at any hearing.